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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,300	09/11/2003	Masaya Ogura	03599.000076.	3570

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EXAMINER

SKIBINSKY, ANNA

ART UNIT PAPER NUMBER

1631

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/659,300	OGURA, MASAYA	
	Examiner	Art Unit	
	Anna Skibinsky	1631	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 2-7, 10, 12, 13 and 15-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1, 8, 9, 11 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Election/Restriction*

1. Applicant's election without traverse of Group I, Species II (claims 1, 8, 9, 11, and 14) in the reply filed on April 24, 2006 is acknowledged.
2. Claims 2-7, 10, 12, 13, and 15-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group and Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 24, 2006.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1, 8, 9, 11, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1, lines 7 and 14 recites "additional information". It is unclear what the information is additional to. For the purpose of examination, the "additional information" will be interpreted as meaning additional to the identification of the medical examination device.
6. Claim 1, lines 20-21 recites sharing and utilizing the particular additional information about the device among a plurality of users "based on the identification". It is

unclear by what is meant by "based on the identification" and if this refers to the identification of the users or the identification of the device and if this is a criteria from sharing the information. For the purpose of examination "based on the identification" will be interpreted as meaning the identification of the device.

7. Claim 1 recites the limitation "based on the identification" in lines 14 and 15. There is insufficient antecedent basis for this limitation in the claim because line 10 recites "identifying the identification". As such, there are two possible identifications that take place in practicing the claimed method.

8. Claim 1 recites a "memory into which particular additional information about the medical examination device is remotely writable through a network ..." The is vague and indefinite because it is not clear where the memory is and if it is in the medical device or outside the device. For the purpose of examination, the memory will be interpreted as being inside or outside the medical device.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Othmer et al. (US Patent No. 6,167,358)

Art Unit: 1631

11. The instant claims recite a method for identifying the identification of a medical examination device, writing information related to its usage and correlating the identification of the device with the information related to its usage. The method then shares and utilizes the information about the device with relevant users. Claim 1, lines 3-6 and 12-15, recite identifying the identification of a medical examination device and writing down information relating to the usage of the device in a memory. Claim 1, lines 6-10 and 13-15, and claim 8 recite remotely, through the internet, writing down in memory the additional information related to the usage of the medical examination device. Claim 1, lines 15-17, and claim 9 recite correlating the identification of the device with the additional information such as a lifetime of the device. Claim 1, lines 18-21 recites sharing and utilizing the information about the device among a plurality of users based on the identification.

12. Othmer et al. teach a system and method which can be applied to medical examination devices. The method includes detecting information about a computer based system and relaying it back to server which then communicates the information to a plurality of other computer based systems (Abstract). Othmer et al. teaches gathering information about a computer based system over a time interval and transferring the accumulated information back to a central server in order to generate statistics about the frequency of a problem (col. 2, lines 43-52). The system includes generating usage information for each feature in a software application (col. 2, lines 47-49). Othmer et al. teaches the server connected remotely to the Internet that permits communication of the computer based systems (col. 4, lines 46-50). The information

Art Unit: 1631

extracted from the computer based systems which can be medical examination devices such as blood glucose monitor or medical laboratory equipment (col. 4, lines 29-30) is communicated to the server on the network (Abstract and col. 4, lines 43-47). Othmer et al. teaches that the set of data, called a black box, particular to the device includes a timestamp that determines the sequence of events prior to the triggering of a certain event (col. 5, lines 26-30). The sequence of events is "a lifetime" of events of the device. Othmer et al. teach the sharing and utilizing of the device related information with a plurality of users such as customer service databases, email report generator and query tool (col. 9, lines 5-21). A plurality of users may also include a user receiving solution information and a customer support person (col. 2, lines 57-65).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anna Skibinsky whose telephone number is (571) 272-4373. The examiner can normally be reached on 8 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1631

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Anna Skibinsky, PhD

*John S. Brusca 20 June 2006*  
JOHN S. BRUSCA, PH.D  
PRIMARY EXAMINER